

1 Rule 10-1-501. Orders to show cause.

2 Intent:

3 To describe the process for requesting an order to show cause.

4 Applicability:

5 This rule shall apply to the Fifth District Court.

6 Statement of the Rule:

7 (1) Motion. A party who seeks to enforce an order or a judgment of a court against  
8 an opposing party may file an ex parte motion for an order to show cause. The motion  
9 must be filed with the same court and in the same case in which that order or judgment  
10 was entered. The motion shall be made only on an ex parte basis, and the procedures  
11 of Rule 7 of the Utah Rules of Civil Procedure shall not apply.

12 (2) Affidavit. The motion for an order to show cause must be accompanied by at  
13 least one supporting affidavit. Each supporting affidavit must be based on personal  
14 knowledge and must set forth admissible facts and not mere conclusions. At least one  
15 supporting affidavit must state the title and date of entry of the order or judgment which  
16 the moving party seeks to enforce.

17 (3) Order. The motion for an order to show cause must be accompanied by the  
18 proposed order to show cause, which shall:

19 (3)(A) state the title and date of entry of the order or judgment which the moving  
20 party seeks to enforce;

21 (3)(B) specify the relief sought by the moving party;

22 (3)(C) order the opposing party to make a first appearance in court at a specific date,  
23 time and place and, then and there, to explain why or whether the opposing party acted  
24 or failed to act in compliance with such order or judgment;

25 (3)(D) order the opposing party to appear personally or through legal counsel at the  
26 first appearance;

27 (3)(E) state that no written response to the motion and order to show cause is  
28 required;

29 (3)(F) state that the first appearance shall not be the evidentiary hearing, but shall be  
30 for the purpose of determining

31 (3)(F)(i) whether the opposing party contests the allegations made by the moving  
32 party.

33 (3)(F)(ii) whether an evidentiary hearing is necessary.

34 (3)(F)(iii) the specific issues to be resolved through an evidentiary hearing, and (iv)  
35 the estimated length of any such evidentiary hearing; and

36 (3)(G)state whether the moving party has requested that the opposing party be held  
37 in contempt and, if such a request has been made, recite that the sanctions for  
38 contempt may include, but are not limited to, a fine of \$1000 or less and a jail  
39 commitment of 30 days or less.

40 (4) Service. If the court grants the motion and issues an order to show cause, the  
41 moving party must have the order, the motion and all supporting affidavits served upon  
42 the opposing party. Service shall be made in the manner prescribed for service of a  
43 summons and complaint, unless the moving party shows good cause for service to be  
44 made by mailing or delivery to the opposing party's counsel of record and the court so  
45 orders. The date of the opposing party's first appearance on the order to show cause  
46 may not be sooner than five days after service thereof, unless

47 (4)(A) the motion requests an earlier first appearance date,

48 (4)(B) it clearly appears from specific facts shown by affidavit that immediate and  
49 irreparable injury, loss, or damage will result to the moving party if the first appearance  
50 is not held sooner than five days after service of the order to show cause, and

51  
52 (4)(C) the court agrees to an earlier first appearance date.

53 (5) First Appearance. The opposing party's first appearance on the order to show  
54 cause, at the date, time and place stated therein, shall not be the evidentiary hearing. At  
55 the first appearance, the court shall determine

56 (5)(A) whether the opposing party contests the allegations made by the moving  
57 party,

58 (5)(B) whether an evidentiary hearing is necessary,

59 (5)(C) the specific issues to be resolved through an evidentiary hearing, and

60 (5)(D) the estimated length of any such evidentiary hearing. The court may order the  
61 parties to file memoranda on legal issues before the evidentiary hearing. If the opposing

62 party does not contest the allegations made by the moving party, the court may proceed  
63 at the first appearance as the circumstances require.

64 (6) Evidentiary Hearing. At the evidentiary hearing on a contested order to show  
65 cause, the moving party shall bear the burden of proof on all allegations which are  
66 made in support of the order.

67 (7) Limitations. An order to show cause may not be requested in order to obtain an  
68 original order or judgment; for example, an order to show cause may not be used to  
69 obtain a temporary restraining order or to establish temporary orders in a divorce case.  
70 This rule shall apply only in civil actions, and shall not be applied to orders to show  
71 cause in criminal actions. This rule does not apply to an order to show cause issued by  
72 a court on its own initiative.

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